IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 11944 of 2007(V)

OS.376/1985 of III ADDL.M.C.,TRIVANDRUM

.....

PETITIONER:

M.ROBINSON, S/O.MANAS,
T.C.6/635 (NEW TC 38/871),
MALMAR KUZHIVILA VEEDU, VATTIYOORKAVU,
TRIVANDRUM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS:

---

1. KOCHAPPI KUTTAPPAN, S/O.KANNA KUNJI,
KUZHIVILA PURAYIDAM, MOOTHANDA MURI,
ACHAMADA VILLAGE.

2. KOCHAPPI RAGHAVAN,
KUZHIVILA PURAYIDAM, MOOTHANDA MURI,ACHAMADA
VILLAGE.

3. KUNJI PANKAJAM,
KUZHIVILA PURAYIDAM, MOOTHANDA MURI,
ACHAMADA VILLAGE.

4. KUNJI ANANDAVALLY,
KUZHIVILA PURAYIDAM, MOOTHANDA MURI,
ACHAMADA VILLAGE.

5. LEELA KUTTAPPAN,
W/O.LATE KUTTAPPAN, MALAMAR, KUZHIVILA VEEDU,
VATTIYOORKAVU, TRIVANDRUM.

6. K.RAJAN, S/O.LATE KUTTAPPAN, MALAMAR,
KUZHIVILA VEEDU, VATTIYOORKAVU, TRIVANDRUM.

7. K.SABU RAJ, S/O.LATE KUTTAPPAN, MALAMAR,
KUZHIVILA VEEDU, VATTIYOORKAVU, TRIVANDRUM.

8. L.LEENA, D/O.LATE KUTTAPPAN, MALAMAR,
KUZHIVILA VEEDU, VATTIYOORKAVU, TRIVANDRUM.

9. B.HARIKUMAR, MEENATTOOR HOUSE,
MEENATTU, FLAT NO.28, PATTAM THANUPILLAI
HOUSING COLONY, VATTIYOORKAVU, TRIVANDRUM.

R2 TO 8 BY ADV. SRI.D.AJITHKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: A TRUE COPY OF THE JUDGMENT IN O.S. 376/85 DT.23.9.91 ON THE FILE OF 3RD ADDL. MUNSIFF'S COURT, TRIVANDRUM

EXT.P2: -DO- OF THE JUDGMENT PASSED BY THE RENT CONTROL APPELLATE AUTHORITY, TRIVANDRUM IN RCA 14/02 DT.30.9.2006

EXT.P3: -DO- DT. 15.1.07 IN W.P(C) 1721/07

EXT.P4: -DO- OF THE E.A 77/07 IN E.P.580/05

EXT.P5: -DO- E.A.120/05 IN E.P.580/05

EXT.P6: -DO- OF THE ORDER DT.20.2.2007 IN E.A.120/07 ON THE FILE OF 3RD ADDL. MUNSIFF'S COURT, TRIVANDRUM

EXT.P7: -DOL- OF THE PROOF AFFIDAVIT FILED IN E.A.77/07 IN E.P530/05 IN O.S.376/85

jj /TRUE COPY/

P.A.TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 11944 OF 2007 V

Dated this the 15th June, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order passed by the Munsiff Court, Thiruvananthapuram in E.A.77/07. It is an order passed under Order XXI Rule 97 of the Civil Procedure Code. As per the provisions of law it is an appealable order because the said application has to be treated as a suit and disposed of in compliance with Order XXI Rule 101 CPC. Therefore, the writ petition is not maintainable. It is submitted by the learned counsel that in the light of the wrong prosecution of the matter there will some delay when an appeal is filed. When an appeal is filed this fact may be noted and sympathetically considered. Writ petition is dismissed.

M.N.KRISHNAN
Judge

jj